

REMARKS

Claims 1-15 and 33-47 are all the claims pending in the application. By this Amendment, Applicant adds new claims 44-47. Claims 39-43 are objected to under 37 C.F.R. § 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Claims 39-43 are rejected under 35 U.S.C. 101 as being directed to non-statutory subject matter. Claims 1-15 and 33-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Palcic et al. '190 (U.S. Patent No. 5,827,190; hereinafter "Palcic").

Objection of Claims 39-43 Under 37 C.F.R. § 1.75(c)

Applicant respectfully submits that claims 39-43 are of proper dependent form. Claims 39 and 41 recite:

An apparatus for displaying fluorescence image . . . , wherein in the abnormal light affected area, the fluorescence components of the fluorescence having been produced from the living body tissues exposed to excitation light is greater than the reflected reference light.

Specifically, claims 39 and 41 recite certain characteristics of the invention when abnormal light affected area is exposed to excitation light and reference light. Claims 39 and 41 recite that the fluorescence components of the fluorescence having been produced from the living body tissues exposed to excitation light is greater than the reflected reference light. In other words, a particular reference light is required such that when abnormal light affected area of the living body tissues are exposed to excitation light, the living body tissues give off fluorescence components of the fluorescence that is greater than the reflected reference light.

Therefore, claims 39 and 41 do not merely recite the response of the tissue to excitation light, but also further define the required reference light to, in turn, further define the subject of the base claim.

Similarly, claims 40 and 42 further define the characteristics of the reference light since the exposure of a normal light detection area of the living body tissues requires certain fluorescence with respect to the excitation light and the reference light, as recited in the claim.

For at least the above reasons, claim 39-41 comply with 37 C.F.R. § 1.75(c).

Rejection of Claims 39-41 Under 35 U.S.C. § 101

Applicant respectfully submits that claims 39-41 are directed to statutory subject matter. As explained above, claims 39-41 require certain qualities in the reference light. These qualities result in a reflected reference light such that wherein in the abnormal light affected area/normal light detection area, the fluorescence components of the fluorescence having been produced from the living body tissues exposed to excitation light is greater/less than the reflected reference light. Such results provide the necessary utility to satisfy 35 U.S.C. § 101.

Rejection of Claims 1-15 and 33-43 Under 35 U.S.C. § 103(a) Over Palcic

Applicant submits that claim 1 is patentable because a prima facie case of obviousness has not been established. For example, Palcic fails to teach, suggest or provide motivation for, inter alia:

making a judgment as to whether each of image areas embedded in the tissue condition image is an abnormal light affected area, which has been affected by light

having an intensity **equal to at least a specified value**, or a normal light detection area,
which has been formed with light having an intensity **lower than the specified value**

Applicant submits that Palcic teaches the opposite of what is claimed in that diseased areas will have a green autofluorescence image with **lower** intensity, while in normal tissue areas, the green autofluorescence image will have a **higher** intensity. Col. 6, lines 44-51.

Even assuming *arguendo*, that the Examiner is asserting that the above judgment is based on the reflected reference light image in claim 1, and thus, alleging that the remittance light image of Palcic corresponds to the claimed reflected reference light, the rejection of claim 1 is still not supportable. In Palcic, the remittance light image is substantially unaffected by normal or diseased tissue. Col. 6, lines 44-51. Therefore, the intensity levels of the remittance light image cannot be compared to a specified value.

For at least the above reasons, claim 1 is patentable.

Claims 33-35, 39 and 40, which depend from claim 1, are patentable for at least the reasons submitted for claim 1.

Applicant also submits that claim 33 is patentable because Palcic fails to teach, suggest or provide motivation for a method wherein the operation processing includes:

dividing values of the first fluorescence image by values of the second
fluorescence image to obtain chrominance signal components; and
transforming values of the reflected reference light image into a
luminance signal component,

in combination with other elements of the claim.

Applicant points out that Palcic makes absolutely no mention regarding the any fluorescence image and reflected reference light image with respect to chrominance and luminance signal components and requests the Examiner to point out where such teachings or suggestions exist in Palcic.

Applicant submits that claim 2 is patentable for reasons similar to those submitted for claim 1.

Claims 3-15, 36-38 and 41-43, which depend from claim 2, are patentable for at least the reasons submitted for claim 2.

In addition, Applicant requests the Examiner to specifically address the patentability of claim 3. In the Amendment of August 23, 2005, and the Response of March 15, 2006, Applicant specifically pointed out that Palcic fails to teach or suggest an apparatus wherein the specified value is determined in accordance with an intensity of the reflected reference light, which intensity indicates the presence of regularly reflected light, in the reflected reference light image. As previously pointed out, Palcic merely discloses that the autofluorescence intensity is for both normal and tumorous tissue.

Claim 36 is patentable for reasons similar to those submitted for claim 33.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

AMENDMENT UNDER 37 C.F.R. § 1.111
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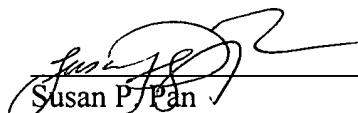
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